

**HAVING RIGHTS AND  
TRULY BENEFITING FROM THEM:  
TWO DISTINCT REALITIES**



the federal **Ombudsman**

## Having rights and truly benefiting from them: two distinct realities

The federal authorities are involved in numerous everyday events. As, most of the time, all goes well, citizens barely give it a thought. But there are times that citizens aren't aware of their rights or, if they are, find it impossible to get satisfaction. Suddenly they find themselves faced with all sorts of problems: getting their hands on the relevant information, identifying and contacting the competent services, furnishing the right documents...

Are couples living together as conjugal partners aware of the implications of their status? Can disabled people actually get in touch with their administration? Can unreliable medical tests be used to decide whether a child joins its parents or not? Is it acceptable that someone is unable to access his or her bank account for months on end?

While the federal authorities go to great lengths to improve their relationship with citizens, the context in which they change can sometimes threaten people's very access to their rights: complex regulations, growing digitalization, omnipresent international legislation, budgetary constraints and performance issues...

And it is the most vulnerable among us who find it hardest to access and exercise their rights. It is one thing to recognise the needs of the people concerned but the authorities must also be in a position to help and assist them in their efforts.



*"Where an authority has a problem, it should be the one that bears the consequences. Citizens should not be left to bear the brunt."*

Catherine De Bruecker  
Federal Ombudsman

*"The issue is not that citizens are becoming more assertive but that vulnerable citizens are still unable to find their way to their government services."*

Guido Herman  
Federal Ombudsman

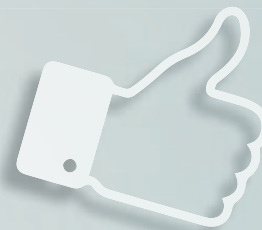


**6.169 new files**

**4.587  
complaints**

**1.582  
requests for  
information**

**Positive results**



**82 % of valid  
complaints are resolved**

## The Federal Ombudsman resolves

We only intervene as a last resort to resolve thousands of issues. Through dialogue, we help citizens exercise their rights.

*“Finally, I was able to use my bank account again”*



Marc owed the FPS Finance € 1,000 but was unable to clear his liability. The FPS Finance levied an attachment and the bank blocked Marc's account to withhold the amount due to the FPS Finance. Yet, his bank account remained blocked. Marc was no longer able to use it. He contacted his bank and the FPS Finance on several occasions, to no avail however. After six months of toing and froing, he contacted the Federal Ombudsman.

*The bank was looking for a specific document from the FPS Finance which is not required by law. Given the urgent need to come up with a solution, the Federal Ombudsman persuaded the FPS Finance to send the document to the bank anyhow. At last, Marc was able to access his bank account again.*

*The FPS Finance agreed to adapt its correspondence to the banks so that the problem does not arise again.*

*“My daughters escaped female circumcision”*

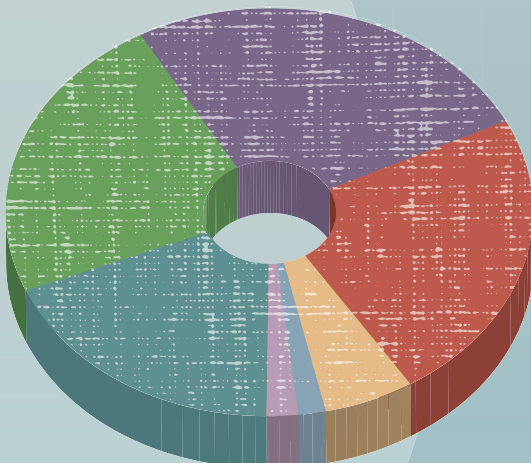


Simone wanted to flee Guinea and move to Belgium. Since their father died, three of her daughters were facing the prospect of female circumcision, a tradition he had always been opposed to. Simone applied for humanitarian visas for her children as she felt that she was no longer in a position to protect them. Her sister-in-law, who lives in Belgium, vouched to take care of the family. As the medical reports confirmed that her eldest daughter had been circumcised already, time was of the essence.

*The risk that Simone's other three daughter would suffer the same fate was real. The situation called for a decision as a matter of urgency. The Federal Ombudsman repeatedly contacted the Aliens Office, insisting that the visa applications be examined without delay.*

*In the end, the Aliens Office agreed and, two weeks later, it issued the humanitarian visas. Simone and her children are finally safe.*

## Complaints by area



- Social security (benefits, disability, dole, sickness...) 28%
- Asylum and migration (visas, residence permits...) 25%
- Tax (income tax, VAT, fines...) 17%
- Mobility (vehicle registration...) 6%
- Identity documents (nationality, passports, identity cards...) 2%
- Detention (living standards, health...) 2%
- Other areas 20%

## The Federal Ombudsman recommends

Where the complaints we receive give us reason to believe that other people could be facing a similar problem down the line, we make a recommendation to the administration or to Parliament. Our recommendations help to improve administrative practices and the legislation. Thus, we enhance the culture of public service and good governance.

### HARMONISING THE DEFINITION OF LEGAL COHABITATION AND INFORMING PEOPLE ABOUT THE CONSEQUENCES OF THIS STATUS

People living together as conjugal partners often believe that they enjoy the same rights as married couples. But that is not the case. The Federal Ombudsman received complaints from people whose partner passed away, whether as a result of cancer caused by asbestos or the Brussels terrorist attack of 22 March 2016. Under the law, they are neither entitled to compensation nor to a survivor's pension.

Legal cohabitants find it particularly difficult to establish the exact implications of their status. In fact, the actual definition of legal cohabitation varies between the different fields: family law, taxation, assets, social security... Also people's entitlements vary accordingly.

The Federal Ombudsman found that people often wrongfully believe that the declaration of legal cohabitation they make to the municipality suffices to protect them in the event of death. Signing a cohabitation contract before a notary offers more protection but the law does not clearly specify what that contract must contain. It would also appear that the notaries themselves aren't always au fait with the specificities of legal cohabitation.

The Federal Ombudsman made a recommendation to Parliament to harmonise the status of legal cohabitation so as to end up with one common definition for all areas. The Federal Ombudsman also recommended to Parliament to better inform citizens about this status and its consequences. To

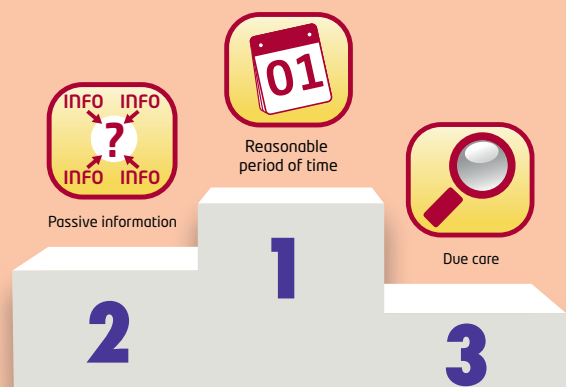
achieve this, collaboration between the various administrations will be indispensable.



### Citizens' concerns

Citizens are entitled to expect a quality service from the authorities. The Federal Ombudsman assesses complaints on a scale of standards that defines the quality of this service. The three standards that give citizens most cause for concern are:

1. Reasonable period of time: authorities must take their decisions within a reasonable period of time.
2. Passive information: authorities must answer citizens' questions, preferably via citizens' communication channel of choice.
3. Due care: authorities must act cautiously and take their decisions with full knowledge of the facts and in a conscientious manner.







**complaints  
compared  
to 2016**

The Directorate General for Disabled Persons, which is in charge of granting benefits and issuing parking cards to people with disabilities, remains difficult to contact and significantly lags behind when it comes to processing files. The problem: a change in software and a reorganisation of the services. And it is the disabled who are bearing the financial consequences of the administration's problems as some of their rights are no longer guaranteed. During 2017, the Federal Ombudsman received 580 complaints on the issue, i.e. an increase of 150 % compared to 2016. It found that two problems had reared their head again.

#### Loss of the social tariff on energy bills



People with a disability qualify for a more favourable rate on their gas and electricity bills, which is known as the social energy tariff. But, unlike the disability allowance, that tariff is not granted retroactively. Yet, it all forms part of one and the same decision. This means that disabled people are forced to forego the social energy tariff for several months. The delay in the administration's processing of the files further compounds that loss.



We made a recommendation to Parliament to clarify the regulation to ensure that disabled persons are granted the social energy tariff retroactively.

#### Loss of the supplementary allowance

In certain cases, the administration will grant people a higher allowance if a medical examination brings to light that a person's condition has deteriorated. The problems the administration is experiencing are causing a delay in the decisions taken in the wake of a medical review. As a consequence, disabled people are forced to wait for the supplementary allowance that compensates them for their deteriorating health for months, without being entitled to arrears or default interests even.

We recommended to Parliament that the regulations be amended to ensure that the supplementary allowance is paid after a scheduled medical review and will no longer depend on the speed at which a file is processed.

The Federal Ombudsman already pointed out these problems in 2010 and 2012. The current state of play confirms that a swift solution is required. The delay in the processing of files erodes the rights of disabled people and causes them to lose money. It is unacceptable that vulnerable people are made to foot the bill.

#### Other recommendations

- Processing vehicle registration applications in paper format within 7 calendar days and, in the event of a delay, informing people how long they will have to wait.
- Clearly informing citizens when the costs of legal assistance must be reimbursed and checking that a person's financial situation has improved before these costs are recovered.
- Issuing an acknowledgement of receipt as soon as an application for a certificate of non-impediment to marriage, which allows a Belgian national to marry abroad, is received.
- Examining family reunification visa applications in their entirety and listing all the reasons that led to refusal in the decision.

## The Federal Ombudsman persuades

Because we enter into dialogue with the authorities, certain issues can be resolved quickly. We rely on the know-how of the authorities who, in general, welcome our findings.

### THE AGE OF A CHILD WILL NO LONGER BE DETERMINED ON THE BASIS OF A DUBIOUS MEDICAL TEST

When dealing with family reunification visa applications, there are times that the Aliens Office has its doubts about the age of a child. In cases like these, it would ask a physician of the country of origin to determine the child's skeletal maturity. This would usually be done on the basis of an X-ray of the pelvis in accordance with the Risser method. If the physician came to the conclusion that the child was an adult, the Aliens Office would deny the family reunification visa.

The reliability of these bone tests has been widely criticised by medical scientists as the test was designed to monitor children's growth, not to determine their age. Used in isolation, they are highly inaccurate. Furthermore, children are exposed to potentially harmful radiation. The procedures also give reason for concern. The Federal Ombudsman has found that the doctors'

reports are extremely concise and the Federal Ombudsman is convinced that they leave no margin for error. What's more, parents were not systematically asked to give their consent.

The Federal Ombudsman recommended to the Aliens Office to no longer use these inadequate tests until such time as they have been thoroughly analysed. The Aliens Office agreed to no longer impose them in the future. It remains to be seen how it will henceforth determine a child's age in the event of doubt.

## The Federal Ombudsman safeguards integrity

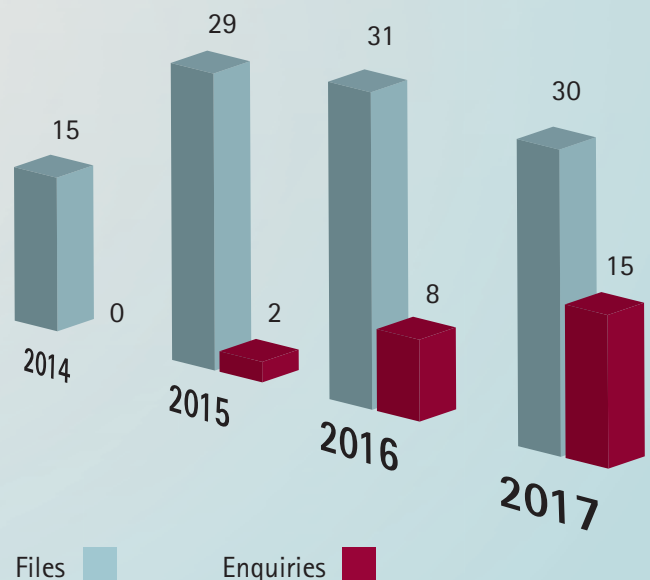
Federal employees can report any abuses they come across within the federal administration to the Integrity Centre at the Federal Ombudsman. This can range from irregular procurement contracts, asset misappropriation to fraud and favouritism.

In 2017, the Integrity Centre opened 30 new files and conducted 15 enquiries. Since 2016, the number of enquiries has almost doubled. At the end of any enquiry, the Integrity Centre sends a report to the head of the administration concerned. This report contains the conclusions of the enquiry and recommendations. The whistle-blowers are protected.

The irregularities reported in 2017, mainly centred around two issues:

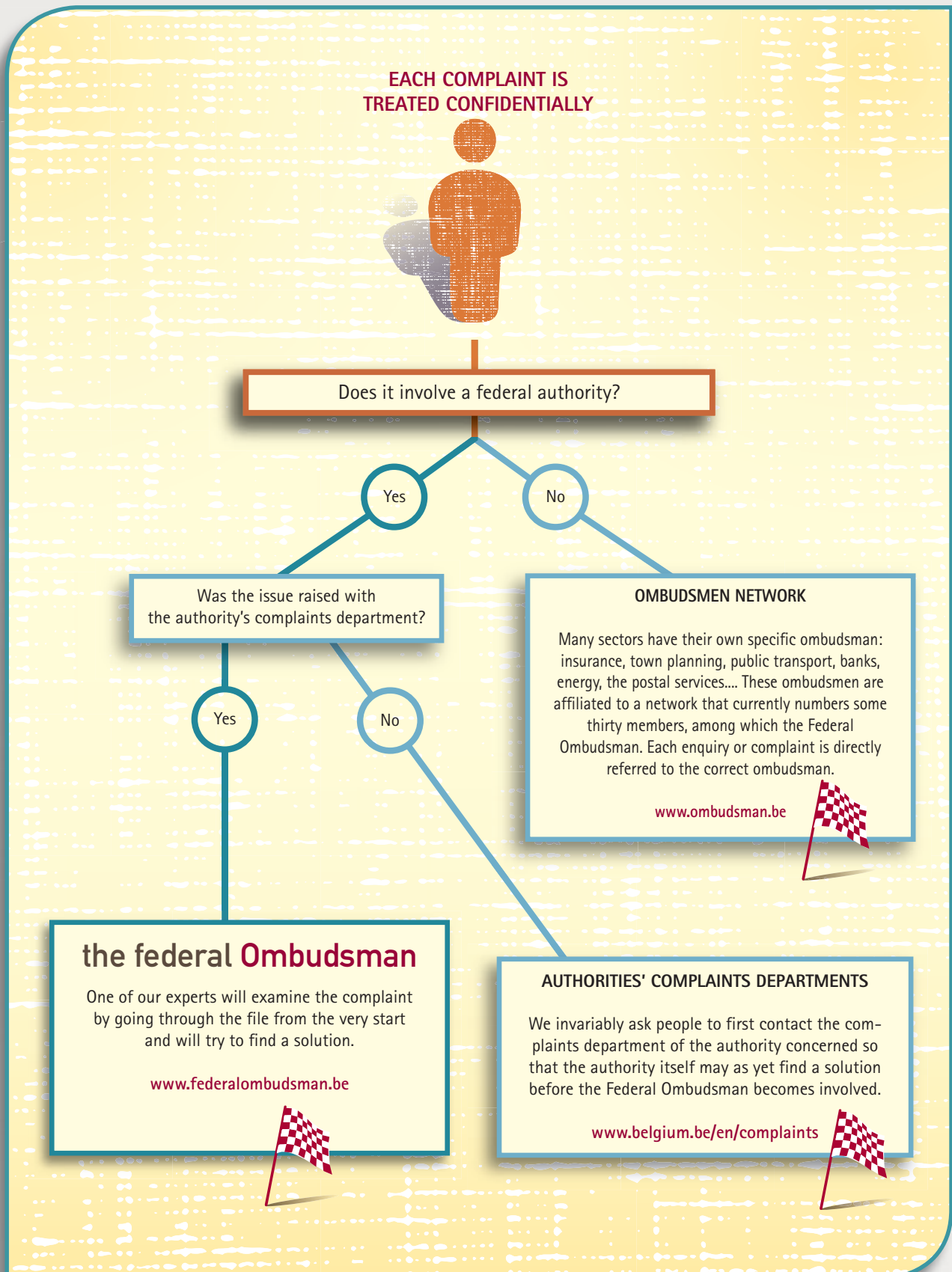
- Unfair treatment in matters of personnel management (granting of allowances, promotions...)
- The misuse of confidential and/or personal data.

*Trend in the number of new Integrity Centre files and enquiries*



# The Federal Ombudsman helps you

We help citizens to find the best possible solution to their problems, free of charge. When we are contacted about a problem that does not involve a federal authority, we refer them to the ombudsman or the department that will be able to help them.



## The Federal Ombudsman near you



**Make an appointment!**

- 13 cities
- 1 office hour a month



In 2017, the Federal Ombudsman celebrated its 20<sup>th</sup> anniversary!

Over the years, thousands of people have contacted the Federal Ombudsman to find a solution to their problems. We see any complaint we receive as a valuable signal to improve the relationship between citizens and the administrations.

A wealth of information!

Day in day out, the team of the Federal Ombudsman devotes itself to relaying these signals and fostering good governance, respect for human rights and the integrity of the authorities.



## the federal Ombudsman

**0800 99 962**

**[www.federalombudsman.be](http://www.federalombudsman.be)**

Leuvenseweg 48 box 6 rue de Louvain 1000 Brussels